

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:22-cv-00005-MOC-WCM

MATTHEW ROUS

Plaintiff,

v.

CITY OF ASHEVILLE,
BRETT L. FOUST

Defendants.

ORDER

This matter is before the court on:

1. The City of Asheville's Motion to Dismiss Crossclaims (the "Motion to Dismiss Crossclaims," Doc. 10); and
2. Brett L. Foust's Motion for Extension of Time to Respond to City of Asheville's Motion to Dismiss Defendant Brett L. Foust's Amended Crossclaims (the "Motion for Extension," Doc. 14).

I. Background

On February 25, 2022, Plaintiff filed an Amended Complaint naming the City of Asheville (the "City") and Brett L. Foust ("Foust") as defendants. Doc.

5.

The City answered on March 11, 2022. Doc. 6.

On March 25, 2022, Foust filed an answer to the Amended Complaint

and crossclaims against the City. Doc. 9.

On April 18, 2022, the City filed the Motion to Dismiss Crossclaims. Doc. 10.

On May 9, 2022, Foust filed amended crossclaims against the City pursuant to Rule 15(a)(1)(B). Doc. 12.

On May 23, 2022, the City filed a motion seeking the dismissal of Foust's amended crossclaims ("Motion to Dismiss Amended Crossclaims"). Doc. 13.

On June 2, 2022, Foust filed the Motion for Extension, by which he asks that his deadline to respond to the City's Motion to Dismiss Amended Crossclaims be extended. Doc. 14.

II. Discussion

"The general rule ... is that an amended pleading supersedes the original pleading, rendering the original pleading of no effect." Young v. City of Mount Ranier, 238 F.3d 567, 573 (4th Cir. 2001); see also Fawzy v. Wauquiez Boats SNC, 873 F.3d 451, 455 (4th Cir. 2017) ("Because a properly filed amended complaint supersedes the original one and becomes the operative complaint in the case, it renders the original complaint 'of no effect'").

Accordingly, the Motion to Dismiss Crossclaims (Doc. 10) is now moot. See Colin v. Marconi Commerce Systems Employees' Retirement Plan, 335 F.Supp.2d 590, 614 (M.D.N.C. 2004) ("Earlier motions made by Defendants were filed prior to and have been rendered moot by Plaintiffs' filing of the

Second Amended Complaint”); Ledford v. Eastern Band of Cherokee Indians, No. 1:20-CV-005-MR-DCK, 2020 WL 1042235 at 1 (W.D.N.C. March 3, 2020) (“It is well settled that a timely-filed amended pleading supersedes the original pleading, and that motions directed at superseded pleadings may be denied as moot”).

With respect to the Motion for Extension, for the reasons set forth therein, that Motion will be granted.

IT IS THEREFORE ORDERED THAT:

1. The City of Asheville’s Motion to Dismiss Crossclaims (Doc. 10) is **DENIED AS MOOT**.
2. The Motion for Extension of Time to Respond to City of Asheville’s Motion to Dismiss Defendant Brett L. Foust’s Amended Crossclaims (Doc. 14) is **GRANTED**, and the deadline for Defendant Foust to file a response to the Motion to Dismiss Amended Crossclaims (Doc. 13) is **EXTENDED** by seven days, through and including June 13, 2022.

Signed: June 6, 2022



W. Carleton Metcalf
United States Magistrate Judge

